

APR 10 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AVTAR SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74799

Agency No. A95-449-347

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Avtar Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' decision dismissing his appeal from an Immigration Judge's ("IJ") denial of his applications for asylum and withholding of removal,

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and request for relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an adverse credibility finding and will uphold the IJ's decision unless the evidence compels a contrary conclusion. *Malhi v. INS*, 336 F.3d 989, 992-93 (9th Cir. 2003). We deny the petition.

Substantial evidence supports the IJ’s denial of Singh’s claims on the basis of an adverse credibility finding. Singh’s documentary evidence was inconsistent with his testimony regarding several significant aspects of his claim. *See Pal v. INS*, 204 F.3d 935, 938 (9th Cir. 2000) (stating that documents submitted by petitioner which contradict petitioner’s testimony may form the basis for an adverse credibility finding). Moreover, the IJ cited specific, cogent reasons for doubting Singh’s Sikh identity, which Singh claims to be the motivation for his past and probable future persecution, and thus also supports the IJ's adverse credibility finding. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Singh failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See id.*

Because Singh’s claim under the CAT is based on the same testimony that the IJ found not credible, and he points to no other evidence that he could claim

the IJ should have considered in making its determination under CAT, his CAT claim also fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.